

REMARKS

This Response is submitted in reply to the Office Action mailed on October 17, 2007. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-510 of the account statement.

Claims 29-56 are pending. Claims 1-28 were previously canceled. In the Office Action, Claims 29-56 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting and are rejected under 35 U.S.C. §112 and §103. In response, Applicants have amended Claims 29, 34, 38, 39 and 53-55 and canceled Claim 33. No new matter is added by these amendments. In view of the amendments and for the reasons discussed below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 29-56 are rejected under 35 U.S.C. § 112, first paragraph. Specifically, the Office Action asserts that the specification does not reasonably provide enablement for any or all kinds of benefits as claimed in independent Claim 29. In response, Applicants amend Claim 29 to recite, in part, a method of providing a pet with at least one benefit selected from the group consisting of gut function, outward appearance, physical and mental activity and aging. This amendment is supported in the specification at page 5, lines 12-14 and page 13, lines 26-31. In view of this amendment, Applicants submit that all the claims meet the enablement requirements. As detailed below, the claims provide sufficient limitation to enable one skilled in the art to make and use the invention commensurate in scope with the amended claims.

In the Office Action, Claims 33, 38, 39, 42 and 53 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Applicants have canceled Claim 33, amended Claims 38 and 53 to remove “younger look,” and amended Claim 39 to remove “according to predetermined directions.”

Regarding Claim 42, Applicants submit that the term “glutathione promoters” is not indefinite. Since glutathione is the body’s most abundant natural antioxidant and an antioxidant that decreases with age, vitamins or minerals that promote the endogenous production of glutathione are in constant demand. See, <http://www.vitaminstuff.com/glutathione.html>.

Moreover, the specification provides non-limiting examples of glutathione promoters. See, specification, page 11, lines 8-14. As a result, the term "glutathione promoters" should be known by one having skill in the art.

Therefore, Applicants respectfully submit that all the claims meet the requirements of the second paragraph of 35 U.S.C. §112.

Accordingly, Applicants respectfully request that the rejections 29-56 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 29-56 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,471,999 to Couzy et al. ("*Couzy*") in view of U.S. Patent No. 5,290,571 to Bounous et al. ("*Bounous I*") or U.S. Patent No. 5,451,412 ("*Bounous II*") and further in view of U.S. Publication No. 2006/0052454 to Hevia ("*Hevia*").

In the Office Action, Claims 26-56 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. WO 02/15719 to Fuchs et al. ("*Fuchs*") in view of the same secondary references, namely *Bounous I* and *Bounous II* and further in view of *Hevia*.

Independent Claims 29, 39, 54 and 55 recite, in part, a method, regimen or composition that provides or increases the effective assimilation of a lipid. Applicants respectfully submit that, even if combinable, the cited references fail to disclose or suggest every element of the present claims.

For example, *Couzy* fails to disclose or suggest a method, regimen or composition that provides or increases the effective assimilation of a lipid as required, in part, by independent Claims 29, 39, 54 and 55. The Office Action admits the same. See, Office Action, page 8, line 12. Rather than teaching anything regarding the ability to assimilate lipid, *Couzy* is directed to milk compositions that avoid or significantly reduce the gastrointestinal problems associated with the consumption of lactose. See, *Couzy*, column 2, lines 1-4. While the Office Action asserts that *Couzy* teaches a pet milk powder that reduces gastrointestinal intolerance, *Couzy* clearly attributes this intolerance to the lactose in cow's milk. See, *Couzy*, column 1, lines 32-33.

Like *Couzy* above, *Fuchs* fails to disclose or suggest a method, regimen or composition that provides or increases the effective assimilation of a lipid as required, in part, by independent Claims 29, 39, 54 and 55. The Office Action admits the same. See, Office Action, page 10, line

7. Instead, *Fuchs* is directed to a composition, comprising protein, carbohydrate and lipid sources, that provides the special nutritional requirements of those with limited appetite such as the elderly or those who have impaired ability to digest other sources of protein such as persons having chronic gastritis who have a reduced gastric pepsin digestion. See, *Fuchs*, page 2, lines 21-26. If fact, *Fuchs* teaches the incorporation of lipids into the composition without discussing the possible inability of a patient to assimilate those lipids, not to mention digesting or absorbing the lipids, due to an existing disease or medical condition. See, *Fuchs*, page 8, lines 3-24.

Moreover, *Bounous I*, *Bounous II* and *Hevia* also fail to disclose or suggest a method, regimen or composition that provides or increases the effective assimilation of a lipid as required, in part, by independent Claims 29, 39, 54 and 55. For example, *Bounous I* and *Bounous II* are both directed to whey protein compositions comprising whey protein concentrate that function to improve humoral response, where secreted antibodies bind to antigens on the surfaces of invading microbes (such as viruses or bacteria), which flags them for destruction.

Hevia teaches lipid digestion due to bile salts. See, Office Action, page 7, lines 20-21. However, the present claims recite lipid assimilation rather than lipid digestion. Applicants' specification clearly distinguishes digestion from assimilation by defining "digestion" as the breaking down of a food matrix into constituent parts and defining "assimilation" as incorporation of simple molecules, produced from food digestion and absorbed into the body, into complex compounds forming the constituents of the organism. See, specification, page 3, lines 14-16. Therefore, *Hevia* still fails to disclose or suggest a method, regimen or composition that provides or increases the effective assimilation of a lipid.

Therefore, Applicants respectfully submit that all the cited references fail to disclose or suggest every element of the present claims. Accordingly, Applicants respectfully request that the obviousness rejections of Claims 29-56 be withdrawn.


In the Office Action, Claims 29-56 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 48-60 of copending Application No. 10/510,126. Accordingly, submitted with this response is a Terminal Disclaimer disclaiming the terminal part of any patent granted on the pending application extending beyond the expiration date of the following U.S. Patent Application Serial No. 10/510,126.

Accordingly, Applicants respectfully request that the provisional rejection of Claims 29-56 under nonstatutory obviousness-type double patenting be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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